1A & 1884. Resy & Agt 1A (53)

File No. 1·A

1884. (5)

Collection No.

Mysore Residency

16.1.07.

5?

Pros. / Serial Nos. 1-6 2-5

Subject.

Dispute between the Municipal Committee and the Committee of the Bangalore Book club regarding their respective rights to the compound within which the Mayo Hall and the Book club House stand.

Previous References.

Later References.

MGIPC—FP—7-5DCF—S&P—(G-1576)—14-3-28—60,000.

With reference to the Rev Clerks remarks commencing with the words "Curiously enough" at the bottom of page 9 of the accompanying D. O. the Registrar begs respectfully to submit that the Journal on which the Recording Town Clerks have not been included in the present return to the Municipality of the Surveyor's Half Pressures Local - and this was why the allusion was made to it in the Head of Ground - The Municipality can therefore therefore be credited in the Schedule, nor can they have a voice in any

Proceedings of the Committee
of the Book Club.

The right of the Letter
to the Building & Land
within the lines marked
in the Plan
A, S, T, C. has not been dis-
puted or called in
question. The present
matter arose from a request
made by Mr Hudson for
a new Carriage drive
& the Building Rule of the
Reading Room

J. H. S.

3

QUARTERMASTER-GENERAL'S OFFICE,
HEAD-QUARTERS, Oct 2
188 .

June 14

My dear Mr Lyell

I return the
papers received with
your note of 31st with-
out many thanks

I have written officially
to General Rowlands, to say
that the evidence is adverse
to making the matter

5

[illegible] Commission

My dear Boyle,

I am sorry I cannot send you the papers you want. If the P. W. D. had any records on the subject they would be in the office of the Exec. Engr Bangalore Division (Seshadri).

But I learn in enquiry that the file of papers connected with the Imperial Hotel has been made over to the Imperial

-cipal Residents; and
I expect he has the in-
-formation you require
Beyond Assisting on
the design & construction
of the building the R.A.D.
have had no voice on
the matter

Yours Sincerely
H Buchanan

21st

Hayden Wyatt

Mr Lewis has asked me to
say if some amicable arrangement
cannot be made between the
Mun. Commrs Mr C & Mrs
and the Committee of the Bampton
Workhouse (backed by the Guardians
of the Division) regarding the dispute
as to ownership of the land in
the Mays Walk and the Library
compound & enclosure —

2. I see in the deed of 16 June 83
between Sir J. Gordon & the Mun. Comrs
it is recited that the Chief Commissioner

(8)

a site for the erection of the
Mayo Bank (this was on the proposal
of the Mayor Mayo Memorial
Central Committee, the Committee
eventually handed over the site
to the unconstituted building society
for the Chest Town.
Please see if you can find in
our files or in the Deeds any
files which show on what
authority the Chief Com
granted this land as a site
for the Cent Committee.

3 No mention is made in the
deed. No 6 Book 83 of the

4. There appears to be nothing in the Mun Regtns of 83 to vest land the property of the public or community in the Municipal Communes. But see 7 transfer to them all land derived by the late Communes under the old Regtns of 1871 - Is there anything in the Regtns of 1871 to vest land belonging to the community in the Mun - Communes

I think the Chief Comr made over to the Mun. Communes the property in all land in Q.L.M.S owned by the State (except land held in the Military Dept) When was this done

Was all land owned by municipalities and communes transferred to the State? Was it by the Municipal Corporations Act?

Book Society: house a Reading
Room: the deed makes over the
whole enclosure, including the
London Wall Reading room
Mayo Hall
Mounds, with all buildings on it
to the Town. Commons and there is
no covenant or reservation as to
the Reading Room. Qu what
is the reason of this? When
was the Reading Room built,
by whom and with money how raised
Plans in town and Clerk know
what you can ascertain. Might Jm
work in town on these points

and by what orders?

Yes. You can get the Chemist to photostat to 4 & 5. But keep this letter. I wrote as I am only getting information to date of. I can offer to intervene usefully. Please return this with your reply.

Yours sincerely
D. B. Taylor

May 13/54

P.S. I believe that in 1877, 78, & 79

The Garrison Staff being called upon to pay a postponement on this land or on the old theatre, a Bath room (then dilapidated) we stood on it upon to do so and the C.C then directed the buildings to be pulled down and land was annexed the land as State property Plan on it an cowsh on the outgut can be found on a in Devon of this stuff book by the D.P.W Branch

13

Dear Sir

I have attended to your letter to which the same it has reference and have forwarded it to

Yours &c

J. Mark

16/77

Dear Mr Grant

Mr James when coming from Letter of yrs to Genl Rowlands came across the Lease of that piece of land which he has brought it up for you to make with copy of Grant. I left with him (I think you told me to do so) that piece of land marked A. S. T. C. in without the Grant.

You see in the Grant the piece from A to B and B to C was left unmeasured the measurements left with C to D

Perhaps in the Matter

alter wish draft a little

[illegible]

My dear Wyatt

But this grant is not signed & I understood that it was never executed. There is a copy of a deed of agreement & assignment in the file of Mr Norhedat and it gives boundary including the Reading Room, and distinct refer as far as I know to any plan or deed of grant

Please note on this. Was the deed grant as you understand ever executed?

Yours
J. B.
16/7/7

Dear Mr Lyall

I send you up the Office copy of the executed Grant. In that, at page 3, you will see that the measurements begin from C & D. and end with R S T C and consequently exclude the ground around the Library.

Yrs sincerely
H. W. 16/7

Notes-*continued*

15

Copy

To Lieut General Rowland

In original, in Lieut

5

You are aware that the Commander-in-Chief suggested that we should confer together with a view to induce the Municipal Committee and the Committee of the Bangalore Book Club to compromise the dispute regarding their respective rights to the compound or enclosure within which the Mayo Hall and the Book Club House stand. I readily agreed, but since then my position has been altered, as I have been made the highest appellate judge of the Civil and Military Station, in addition to my other duties in regard to it. Under these circumstances I cannot properly take an active part or give opinions on legal points, as, if litigation occurs, I may have to try the case judicially.

I send however for your information a note prepared in my office, and will give for what it is worth my own opinion.

The facts seem to be pretty clear. The compound was bought in 1818 by public subscription as a site for social gatherings and amusements. A Theatre, Ball room and Reading room were built some time after and I am informed that the Public Band stand of the Station was for a long time in the ground. The Society of the Cantonment was then almost entirely Military and the officers of the Garrison must have been the principal subscribers, but it is very probable that the old Maharaja subscribed liberally. The Garrison and Cantonment staff were at first constituted Trustees of the place for the public but there is nothing to show how long they continued to act as Trustees; there is nothing to

show

2.—R. P. B.—10-1910.—3,000.

Notes-*continued*

show that they have so acted within at all recent times. In all probability the management after a time became vested in a Committee of residents, Civil and Military, like that which has long -- managed the Book Club. In 1872/73, as papers in my files show, the Theatre and Ball room were in a dangerous and délapidated state and it is noted that there were then no records to show how they had been managed or mismanaged for many years past. There was of course no hope of raising by -- subscription enough money to rebuild them. It then occurred to some of the members of the -- Central Committee for Mysore of the Mayo Memorial Fund (they were probably also members of the -- Committee which had management of the Bangalore Book Club, Theatre &c) that the best chance of getting a new Theatre and Ball room would be to use the Mayo Memorial Fund money and any additional money they could get out of the Madras and Mysore Governments in building a Mayo Hall to take the place of the old Ball and Theatre -- rooms. But as a large part of the Mayo Memorial money had been subscribed by natives, it was felt that it would not be right to make the Hall only a place for European amusements; so it was arranged that part of the building should be devoted to a Library and Reading room or Literary Institute for natives and Europeans of all classes. This plan was approved by the Mayo Memorial Committee in 73/74, no doubt with the full approval of the Committee which had charge of the Book Club and délapidated Theatre and Ball room, and the -- building of the Hall was commenced.

After some rupees 30,000 had been spent, of which about Rs. 25,000 were from the Mayo -- Memorial Fund and rupees 5,000 were granted by the

Mysore

17.

Mysore Government, the Hall was found to be unfinished and to require some rupees 15,000 more for completion and furniture. The Mayo Memorial Committee, (in despair apparently of completing the work) dissolved after resolving to hand over unreservedly the site and building to the Chief Commissioner as the Local Government. The Chief Commissioner then conceived the idea of getting out of the dilemma by making over the property-less the Book Club House and a small plot of land surrounding it - to the Municipality on condition of their completing and furnishing the Mayo Hall buildings and engaging to keep the large room which occupies the whole upper story always available for public meetings and assemblies of a -- proper kind. The Municipality was to be free to use the lower story as Municipal offices, and to build other necessary offices in the compound The idea of having a public library and reading room in the building open to all classes ~~has~~ was -- abandoned as unnecessary, now that the whole -- building was to be put to public uses. The -- Municipality agreed to the Chief Commissioner's proposals, took over possession under a deed of grant executed by the Chief Commissioner and fulfilled their part of the contract.

I think this is a substantially accurate history of the facts. The question now is --. whether either the Book Club Committee or the Garrison and Cantonmental staff can claim the whole original estate from the Municipality, or waiving such claim, demand a larger share of the compound that was given them by the measurements and demarcation made at the time of the grant to the Municipality ?

As to the Garrison and Cantonmental Staff

2.—R. P. B.—10-1910.—3,000.

I

Notes-*continued*

I doubt whether they could come forward in the matter with any advantage. They appear to have had as a body no connection for a long time past with the management of the Book Club or other -- institutions on the land. Whether the Book Club Committee can be held to represent not merely the members of the Book Club but also that -- section of the Public which was formerly interested not in the Book Club only but in the whole estate including Ball room, Theatre etc seems to me very doubtful: I do not think they would gain anything by suing the Municipality; and if -- they adopted the advice of the Advocate they consulted and took possession of the land they asked for, the Municipality would apply to the -- Civil Courts to be repossessed and the Courts would under the Specific Relief Act grant an -- order to that effect without going into question of title.

Apart from the difficulty of proving a sufficient title upon which to ground a suit -- against the Municipality, I think that on the -- merits of the case the section of Bangalore -- Society which is interested in the Book Club has no good right to object to the rest of the estate having passed into the hands of the Municipality which represents the Public of Bangalore of all classes.

The Band Stand and Theatre were, I suppose, open more or less to all classes in former times, and now the Mayo Hall has been built at a large cost met from subscriptions of people of all classes, from State Revenue and from Municipal Funds.

My opinion therefore is that the Book Club Committee should be left to make what terms they can with the Municipality and that they should

S. 2.—R. P. B.—10-1910.—3,000.

be

Notes-*continued*

be advised to be very moderate in their demands. If I was myself a member of the Municipal Board I should strongly object on public grounds to any additional land being given to the Book Club for the purpose of the erection of dining rooms, cook houses, or servants houses. As a Reading room, library and Whist room, the institution is unobjectionale where it stands. But it seems to me that there is no room for a regular club and if a regular Club with more rooms and cook houses and servants houses was established, it might come to pass that some day or other the buildings might pass into private hands and become a Hotel or shop to the great detrimental of the appearance and convenience of the adjacent Municipal offices, and public Assembly room.

I am your obt Servt
(Sd) J. B Lyall

S. 2.—R. P. B.—10-1910.—3,000.

20

De albane Vt. Cenaculi

June 12/84

Madam Gen Rowland

I am anxious that the Executive Committee should confer together with a view to induce the Municipal Committee and the Committee of the Bangalore Book Club to compromise the dispute regarding their respective rights in the compound or enclosure within which the Mayo Hall and the Book Club House stand. I readily agree

but more than my position has been altered as I have been made the highest absolute Judge of the C. & M.S in addition to my other duties in regard to it. Under these circumstances I cannot properly take an active part or give opinions on legal points, as if litigation occurs I may have to try cases judicially.

I send however for your information a note I prepared in my office, and will give it what it is worth my own opinion. The facts seem to be pretty clear the compounders were bought in 1878 by public subscription as

and Drama in Spanish Town. The Institute Band
The Station was in a large room in this ground.

a site for social gatherings & amusements a Theatre, Ball room, and Reading Room were built some time after. The Social Condemnation was then almost entire Military, and the Officers & Civil Servants must have been the principal subscribers, but it is very probable that the old Maharaja subscribed liberally. On Garrison Condemnation Hall was at first constituted Trustee of the whole Institute, but then

is nothing to show how long they continued to act as Trustees there is nothing to show that they have ever acted within a full meeting of the management after a time became vested in a Committee of the residents & Civil & Military who has long managed the Book Club In 1872/73, as papers in my files show the Theatre & Ball room were in a dangerous & dilapidated state, and it is quoted that there were no records to show how they had been managed or mismanaged In many years

2)

first Mrs was Norman
we hope of raising by subscription
enough money to re-build them.
Often occurred to some of the
members of the central Committee
for Myron the Mayo Memorial
Fund (the men both also members
of the Rochester Committee in
charge management of the Myron
Rock Club, Mantor, etc) that
the best chance of getting a
new theater & Ball room
would be to use the Mayo Memorial
Fund money and run additional

many thing could get out of the
Medras a Mysore Exhibition
building. at Mayo Hall is also the
place of the Old Ball Room
rooms Both are large but the
Many Monument money has been
subscribed by natives it was left
that it would be right to
make the Hall as a place for
European amusements, it was
arranged that part of the building
should be devoted to Library
and Reading room or Library
Institute for natives and Europeans

Full drawings & plans were
approved by the Mayo Memorial
Committee in 73/74, no doubt with the
full approval of the Committee
which change the Book
Club and dilapidated theatre
and Ball room, and the building
of the Pavilion commenced.
After some Rs 30,000 had been
spent of which about Rs 25,000
was from the Mayo Memorial
Fund & Rs 5000 was granted
by the Mysore Govt, the Hall
was found to be unfinished

(27)

and borrow some Rs 1500
over in completion & Furniture.
On Mayo Mem. Committee, in
despair apparent of completing
the work disbanded after Nothing
over unreservedly the site and
handed ^ building to the
Civil Surg as the local Govt.
On Christmas then conceived
the idea Getting out of
the dilemma by making over
the property to the Municipality
on condition of their completing
& forever keeping the ^ Mayo Hall
as a Female Ward

Left the Kasauli Club House under mutual agreement

and engaging to keep the
large room which occupies the whole
upper story always available for
public meetings & assemblies of a
proper kind. The Municipality was
to pay for keeping the lower story as
Municipal Offices, and to build other
necessary Offices in the compound.
The idea of having a public library
and reading room in the building
of the Town Hall class was abandoned
as unnecessary, and that the whole
building was to be put to public
uses. The Municipality agreed to
the Christmas Festivals, both over

proprietors under a deed of grant executed by the Chief Town, and fulfilled their part of the contract which this is a substantially accurate history of the facts in question now is written after the Book Club Committee of the Garrison & Continental Stuff can claim the whole original estate from the Men by or, bearing such claim, demand a larger share of the compound than was given them by the measurements & demarcations made after their grant to the

Municipality? as to the Z & C
Staff I don't whether they could
come forward in the matter with
any advantage they appear to
have had as a body no connection
for a long time past with the
management - of the Book Club
or other institutions on the land
whether the Book Club Committee
can be held to represent not-
withstanding the members of the Book
Club includes that section of
the Public which was formerly
interested not in the Book Club
only but in the whole estate

including Bath room, Theatre
etc seems to me very doubtful
I do not think they would gain anything
by going to Parliament. The Municipality
and if they adopted the advice of
the advocate they consulted and
took proceedings & the Land they
asked for, the Municipality would
apply to the civil courts to
repossess, and the courts would
under the Specific Relief
Act grant an order to that
effect without going into question
of title.
Apart from the difficulty of

proving a sufficient title upon
which to ground a suit against the
Municipality I think that on the
merits of the case the Bangalore
Book Club is entitled to the
Book Club has no good right
to object to the vesting of the
estate having Independent the
hands of the Municipality which
represents the Public of Bangalore
all classes Viz Bandstand
a theatre room & auditorium open more
or less to all classes in common times
and now the Mayo Hall Chambers
built at a large cost mostly from

subscriptions of persons outside
classes from State revenue, and
from Municipal funds
my opinion was to that the Book
Club Committee should be left
to make what terms they can with
the Municipality, and that they
should be advised to be very
moderate in their demands
If I was myself a member of the
Municipal Board I should strongly
object on public grounds to
any additional land being given
to the Book Club for the purpose

of the erection of dining rooms, cook houses or additional servants houses as a reading room, library and writing room the institution is unobjectionable when it stands but it seems to me that there is no room for a regular club and if a regular club with more rooms, and cook houses & servants houses was established it might come to pass that some day or other the buildings might pass into private hands & become a hotel or shop to the great

detriment of the appearance
& convenience of the adjacent
Municipal Offices, and
Public Assembly room

Yours very truly

(34 5

Archive.

Dear Wyllie

I send back this Memo
Hall & Book Clubs
Bills Please return
& Hudson Letters &
Invoices

Please have Confidential
copy made & D.O.
to General within this
envelope & send me
the signature & despatch
with them other papers
to us.

13/7/.

Secretariat.

Resident in Mysore & Chief Commissioner of Coorg

Lands. 35

Head Quarters, Bangalore Division,

BANGALORE 15th April 1885.

6

No 141.

From

MAJOR-GENERAL HUGH ROWLANDS, V. C. C. B.

Commanding Bangalore Division.

To

The Resident

in Mysore,

Bangalore.

Sir,

I have the honor to forward, for Your favorable consideration, correspondence as per Schedule attached, also the letters, as noted in the margin, and to request the favor of Your opinion and final settlement of the dispute, between the Municipality and the Committee of the Bangalore Book Society, regarding the land, adjacent to the Station Library and Mayo Hall.-

Letter, No: 1967, dated, August 18, 1884, From Asst. Q. M. General, Bangalore, To Secretary, Bangalore Book Society.-

Letter, dated, April 10, 1885, From the Committee, Bangalore Book Society, to Major General Rowlands.- V.C.C.B.

Letter, dated, April 10, 1885, From the Committee, Bangalore Book Society, To J. B. Lyall Esqr. Resident in Mysore, with a Memorandum, dated, March 30, 1885.-

I

2.

I would beg to invite Your at-
-tention, to the Memo: dated, March 30,
1885, attached to letter, dated, April 10,
1885, from the Committee of the Ban-
-galore Book Society, which shows clearly
the facts of the case-

I have to request the favor of 3.
return, when convenient, of all the
documents herewith enclosed for Your
perusal-

I have the honor to be,
Sir,
Your obedient Servant,
Thos Brookes
Major Genl:
C.I. Commanding Bangalore Dn

37

Bangalore
dated 10 April 85

6/a

From

The Committee of the Bangalore Book Society

To,

J. B. Lyall Esqre
Resident in Mysore

Sir,

We the undersigned, being the Committee of the Bangalore Book Society and the Garrison Library, have the honor to address you on the subject of our claim to the ground now occupied by the Mayo Hall which was assigned to the Municipality of the C & M. Station by an Indenture from the late Resident D.d 6th June 1883.

We would premise that we claim the right to use the ground on behalf of the Garrison and Cantonment Staff, who were appointed the Trustees by a grant or title deed dated 20th May 1818, as representing the Officers of the Garrison for whose benefit it was purchased. Our contention is that the ground was conveyed to the Municipality through a misapprehension or oversight on the part of the late Resident without the sanction of the Trustees, the Govt. and Staff for the time being who had held undisputed possession

of it up to the time of the Indentures, that the indenture is therefore invalid and that the ground is in equity the property of those whom we represent. At the same time we may state at once that we make the claim in no hostile spirit but merely to retain the right of using the ground in such a manner as may not interfere with the use of the Mayo Hall by the Municipality according to the terms of the Indentures.

We would also premise that, in deference to the wishes of His Excellency the Commander-in-Chief we endeavoured to make an amicable arrangement with the Municipal Commissioners in the nature of a compromise, but our proposals were rejected by them in toto. It seems unnecessary to trouble you with the correspondence on this subject.

We were next advised to move the Civil Court to appoint afresh, in legal form, the successors of the original Trustees, namely the Garrison and Cantonment Staff "for the time being" to remedy a defect in the D.C. Gen.l's register of grants, which is now the only original record of our title the grant itself not being forth coming

From that register it would appear that the words "for the time being" were not in the grant. But the expenses attending such a step, the Indian Trusts Act not being in force in this Station, are estimated at an amount which deters our recommending litigation in any shape.

We have determined under these

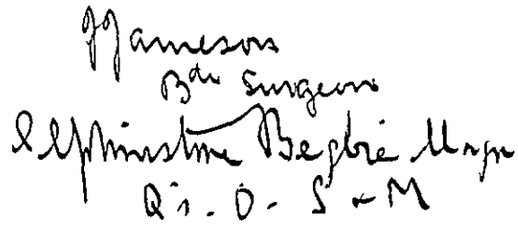
circumstances to address you as the Chief Civil Authority and are persuaded that when all the circumstances of our case are laid before you, you will be prepared to admit the justice of our claim and to arrange for the execution of an Instrument which will so far modify the terms of your predecessors Indenture of 6th June 1883 as to preserve to us the use of the ground, under such limitations as will not infringe on the right conferred on the Municipality to the Marine Hall by an error on the part of your predecessor

We submit for your perusal the correspondence which has passed on the subject of this letter enclosed is one from the Offg. Dy. Mr. Genl. of this Divn. of 18th Augt /84 to the address of our Committee. The documents so enclosed set forth the circumstances of the case and the grounds of claim on both sides. With reference to one of these documents namely a letter from the Solicitor to the Govt. of Madras addressed to the Dy. Mr. Genl. of the Army of 26th April /84 in which an opinion is expressed adverse to our claim while it pronounces the late Resident's grant of 6th June 1883 as "entirely ultra Vires" we also submit a memo by way of a reply to the Govt. Solicitor's objections, elucidating some of the facts of the case which he would appear to have overlooked.

We have the honor
to be, Sir,
Your most obedient Servants

Walter Stewart Lt/S XII R.L.
Thomas Farrant Asst. Surgn. Genl.
H.M.'s Forces.

G. Stanley Capt.
A.A.G.



(45) "Office Copy"

61/-

Memorandum on the Counterclaims of the Book Society and Bangalore Municipality to the ground on which certain buildings now stand.

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(1) The facts admitted by both sides are I believe these:—

(a) That the triangular piece of ground on which the buildings of the Library, Mayo Hall and Police station now stand is that which was bought from Paymaster Kennah and referred to in the Register dated 20th May 1818.

(b) That the ground was purchased by public subscriptions, and donations for the use of the Community.

(c) That the land was handed over to "Trustees" viz the Garrison and Cantonment Staff.—

(2) The Municipality now claim the above piece of ground on two distinct titles - First they say that they are the proper and legal representatives of the "Community" for whose use the land was bought and secondly they say they hold the land under authority of the indenture granted by the late British Resident (Sir James Gordon)

on

on the 6th June 1883.—

(3) At starting, we are met by a self-evident contradiction. Why was it necessary for the Resident to confer a title on the Municipality to the ground by a legal document if it was already their property? It is very clear that the Municipality considered it necessary so late as June 1883 to obtain a legal right to the ground in question by having it conveyed to them by an indenture from the Resident.

(4) But Mr. Barclay the Government solicitor gives it as his opinion that "The land was not vested in the Government or in the Resident, and so far as I can see he had no power to grant it." This being so, it is evident that the Resident's indenture is worthless and that the title based on it by the Municipality is invalid.—

5. The other claim of the Municipality is that they are the representatives of the "Community." If this be correct, then their claim must rest upon the simple and single fact that their Board was organized in 1871. Then we may ask who were the proper representatives of the Community in 1870? It cannot have been the Municipality,

for

for they were not in existence, as a matter of fact it was the Garrison Staff who had really been in possession since 1818. This being so, did the fact of the Municipality coming into existence deprive the Garrison Staff of their title to the ground which they had held undisputed till 1884? For although the Municipal Board has been in existence for 13 years, yet it was only last year that they discovered that the ground belonged to them in consequence of their being the true representatives of the Community for whose benefit the ground was bought.

(6) Had the original grant stated that the Public rooms and grounds attached had been vested in Trustees, for the use of the Military Community, of course doubt could not have crept in. But in the wildest dreams of the original subscribers of 1818 it could never have been entertained that half a century afterwards a Municipality would arise including in its governing body, Europeans (official & non-official) Eurasians, Mahomedans and Hindus and that this body would claim the ground on

behalf

behalf of the General classes represented by them under the general term "Community."

(7) I doubt whether even now the Municipal Board would have the hardihood to assert that the evident intention of the original subscribers was that their trust property was for the benefit and use of the general Community, a term which includes every caste and class of the population of this town.—

(8) Taking the actual facts and probabilities of the Case, I think it cannot but be admitted that the Public Rooms with grounds attached were purchased by a body of Military officers for the use of themselves and their Successors.—

In 1818 the Society of Bangalore, was composed (a few Covenanted Civilians excepted) exclusively of a Military Community. This body purchased by subscriptions among themselves a certain property and registers the transaction in a record kept in the local Quarter Master Generals office, appoints the Garrison and Cantonment Staff, as Trustees and notes that

the

the property is for the use of the Community.

(9) Can any impartial man have the slightest doubt that the donors meant the Public Rooms solely for the use of the Military community and that they never intended that the property should lie for the benefit of Mahomedans. Hindus and every other class which would come under the legal definition of the general Community. —

(10). Mr. Barclay points out that the grant is loosely worded. No doubt that it is, but one cannot expect an accurately legal document from a body of Military officers who felt satisfied that they had made their intentions clear by recording in a registered instrument that the property they purchased was for the use of their "Community" and presumably their Successors. —

(11) Mr. Barclay says that had the condition of trust been in these terms: —

The Garrison and Cantonment Staff for the time being, no one, could have disputed the title of the Garrison Staff of the present day to

lie

be considered the legal representatives of the original Trustees This of course is a strictly legal and technical view of the Case but I much doubt whether any Court of Equity would decide that the omission of the above four words entails the forfeiture by the Military Community of Bangalore of its title to the trust property in question.

(12) For the sake of argument let us suppose that Mr Barclay is right, that the only persons who had a legal title to the property were the original Garrison Staff of 1808. These trustees were of course gradually removed from the station. Let us assume that they had all left by 1825. We then ask to whom did the property belong after this date?

The Municipality say they are the proper representatives and therefore it belongs to them. But the Board was not created until 1871 & 72. Who were therefore the proper trustees in this long interval from 1825 to 1871 of 46 years. Mr Barclay says no one but against this legal opinion is to be set the hard fact that

the

the Military authorities have been in continuous and uninterrupted possession of the property, and this certainly is nine points in the Law.

(13). As a proof of this possession it may be mentioned that on the 26th June 1879. the Chief Commissioner of Mysore wrote to the Assistant Quarter Master General Mysore Division, asking if the General officer Commanding had any objection to the removal of the old (i.e the original) Public Rooms and the levelling of the Site. — The Municipal President himself (Dr. Orr) wrote in July 1879 to the Military authorities to know if the Public rooms might be dismantled by him in accordance with the directions received from the Chief Engineer Mysore D. P. W. This correspondence was, owing to the site of the old Rooms being required for the Mayo Hall. —

It proves conclusively that in 1879. the Chief Commissioner and the Municipal President Considered that the building in question, and of course the grounds attached to it were under jurisdiction of the General

Officer

Officer Commanding the station of Bangalore. It is a significant fact that in giving his assent to the removal of the old Building he made no allusion to the ground. This being so, when did this officer forfeit his title as Trustee (Ex-officio) to the Property.—

That is a question to which we have a right to demand an explicit answer from the Resident, to whom I understand the matter is to be referred for decision.—

Bangalore
30: March
1885.

(Signed) E. Beglie Major
D.O. Sappers & Miners.

WRW.
28 apl. 85

48

1885.

From The Officer Commanding
Bangalore Div

To

Dated 15th April 1885

Despatched

Received 15th / do.

Enclosures No.

No 141

Forwarding for opinion and final settlement correspondence in connection with the dispute between the Municipality and the Committee of the Bangalore Society regarding the land adjacent to the Station Library and Mayo Hall.

Please see Resolution of Committee of Management dated 22nd ult. forwarded with my No 1414 dated 24th ult.

Ref. Mills 19/4

Ref. Mills 20/4/85

Return papers

Please ref. Mills 20/4

Ref. May there any draft to issue? Mills 22/4

Reply that there are no records and therefore cannot be forwarded, but regret to say that (from the) can do nothing & must

(4)

the words "the Committee of the Book Club."

It is within my power, were it willing, to [illegible] modify the terms of the deed of conveyance so as to limit the land to the Book Club boundary wall made over to the Municipal Board. But in view of the facts taken in the Memo in pencil, I do not see how he is able to assert any right. I gave my own opinion of the facts in a demi official letter of 22nd last to Lyon Rowlands, and saw no objection to that letter being shown to the Committee

J.B. 20/4/85

(35)

No. 212/104

Office of the Resident in Mysore,
Bangalore, 26th April 1883.

To,

The Officer Commanding
Bangalore Division.

Sir,

I am desired by the Resident to acknowledge the receipt of your letter No. 141 of the 15th instant, with its enclosures, on the subject of the claims preferred by the Committee of the Bangalore Book Society to the ground now occupied by the Mayo Hall, and which was assigned in 1883 to the Municipality of the Civil and Military Station.

* referred.

2. In reply I am to say that the Resident has carefully perused the papers which accompanied your letter, but he regrets that he is obliged to express his inability to meet the wishes of the Committee. It is not within his power, even if he were willing, to modify the terms of the Deed of Conveyance by which the land outside the

Book Club boundary was made over to the Municipal Board.

3. I am to add that the view of the facts taken in the Memo: dated 30th March 1905, forwarded by the Committee to the Resident with their letter of the 10th instant, does not seem to the Resident to be in all respects correct. In a D. O. letter of 12th July 1904, to your address, Mr. Ly all explained his views regarding the facts of the case and he has no objection to that letter being shown to the Committee. at considerable length,

I have &c.

Hms
24/4

Asst. Resident.

N°. 104

1005.

To The Officers Commd.g
Bengl. Garrison

Dy 26th April 1805

N° 212 — 104. 10:—

57.

No. 213/105 dy 26-4-85. 8

To

The Committee of the
Bcwf: Bk Society

Gentlemen

I am directed to acknowledge the rect of your letter of the 10 Sept. '85; with its enclosure, &c. viz. a copy of your letter No 141 of 15th ulto from the Offr. Comg. Bombay Division in Quadruplicate & the Cheque of the Committee of the Bcwf: Bk Society to the ground rent occupied by the Drug Hall.

2. In reply I am to forward for your information a duplicate copy of letter No 212/104. of this Dept. dated 26 Inst. with

Portland to include
the Resident ~~Engineers~~
~~His~~ duty ~~shall be~~ to
his principle
~~attend~~ to meet the
wishes of the Committee
as to survey the lines
of the Head of Canal.
once by which the
Ground on Section
is to be made out to the
Immediate safety of the
Sec C & M. S.

Secure to

Rum
Jul 14

Wm Hendrie

1005

No. 105.

To

The Committee of the

Bucks: Br. Society

&c.

Dy 26th April 05

Enc: 1

No. 213/105.